

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

2015 MAR 23 PM 4:45

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

MISTER SOFTEE, INC.
901 E. Clemens Bridge Rd.
Runnemede, NJ 08078,

MISTER SOFTEE OF QUEENS, INC.
215-04 Hempstead Avenue
Queens Village, NY 11429, and

SPABO ICE CREAM CORP.
748 Southern Boulevard
Bronx, New York, 10455,

Plaintiffs,

v.

MARIOS ERACLEOUS ACCOUNTING
23-09 31st Street, 2nd Floor
Astoria, New York 11102

CIVIL ACTION NO.

MISC 15 0540

WEINSTEIN, J.

**ORDER TO SHOW CAUSE PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 45(g) AND LOCAL RULES 6.1(d) AND 83.6**

THIS MATTER having been brought before the Court by Plaintiffs, Mister Softee, Inc., Mister Softee of Queens, Inc., and Spabo Ice Cream Corp., pursuant to Federal Rule of Civil Procedure 45(g) and Local Rules 6.1(d) and 83.6, for an order holding Marios Eracleous Accounting ("Eracleous Accounting") in contempt for failure to comply with the February 25, 2015, Subpoena to Produce Documents served by plaintiffs on Eracleous Accounting in the action captioned Mister Softee, Inc., at al. v. Dimitrios Tsirkos, United States District Court for the Southern District of New York, civil action no. 14-cv-1975 (the "Subpoena").

1. The Defendant shall show cause, if any exists, before this Court, in Courtroom

10th Floor S., United States District Court for the Eastern District of New York, 225 Cadman Plaza

East, Brooklyn, New York, 11201, on the 31st day of March, 2015, at 10⁰⁰ A.M./P.M., or as soon thereafter as counsel can be heard, why an order should not be issued which holds Defendant in Contempt for failure to comply with the Subpoena, and for such other relief as may be just.

2. A copy of this Order, together with all supporting papers, memoranda and affidavits, shall be served upon Defendant pursuant to Fed. R. Civ. P. 4(h).

3. The Defendant's answering papers shall be served on counsel for the Plaintiffs and filed with the Court, with courtesy copies delivered to chambers, on or before the 31 day of March, 2015.

BY THE COURT:


UNITED STATES DISTRICT JUDGE

Submitted in support of this Motion are Plaintiffs' Memorandum of Law in Support of its Motion for Contempt for Failure to Comply with Subpoena to Produce Documents and Affidavit of Frank A. Reino, Esquire.

As set forth more fully in the Affidavit of Frank A. Reino, Esquire, Counsel for Mister Softee certifies that the parties have used their best efforts to resolve the matters raised in this Motion but could not reach an agreement. No prior application for the requested relief has been made.

Dated:

3/23/15



Mark H. Jaffe (MJ1725)
TOR EKELAND, P.C.
195 Plymouth Street
Brooklyn, NY 11201
T: (718) 514-2075
F: (718) 504-5417
mark@torekeland.com